



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 29 अगस्त, 1978/7 भाद्रपद, 1900

हिमाचल प्रदेश सरकार

RESOLUTION

Whereas, the Central Government, in exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (No. LX of 1952) has, *vide* Ministry of Home Affairs Notification No. S.O. 374(E), dated 28th of May, 1977, appointed a Commission of Inquiry consisting of Chairman Shri J. C. Shah, a retired Chief Justice of the Supreme Court of India, to enquire into several aspects of allegations of abuse of authority, misuses of powers, excesses and/or malpractices committed and action taken or purported to be taken in the wake of the emergency proclaimed on the 25th June, 1975 under Article 352 of the Constitution with the following, having been mentioned in paragraph 2 of the said notification, as terms of reference of the Commission, namely:—

- (a) to inquire into the facts and circumstances relating to specific instances of—
- (i) subversion of law-ful processes and well established conventions, administrative procedure and practices, abuse of authority misuse of powers, excesses and/or malpractices committed during the period when the proclamation of Emergency made on 25th June, 1975 under Article 352 of the Constitution was in force or in days immediately preceding the said proclamation;

- (ii) misuses of powers of arrests or issue of detention orders where such arrests or orders are alleged to have been made on considerations not germane to the purposes of the relevant Acts during the aforesaid period;
- (iii) specific instances of maltreatment of and/or atrocities on persons arrested under DISIR or detained and their relatives and close associates during the aforesaid period;
- (iv) specific instances of compulsion and use of force in the implementation of the Family Planning Programme during the aforesaid period;
- (v) indiscriminate, high-handed or un-authorised demolition of houses, huts, shops, buildings, structures and destruction of property in the name of slum clearance or enforcement of Town Planning or land use schemes, during the aforesaid period:

Provided that the inquiry shall be in regard to acts or such abuse of authority, misuse of powers, excesses, malpractices etc., alleged to have been committed by public servants, and provided further that the inquiry shall also cover the conduct of other individuals who may have directed, instigated or sided or abetted or otherwise associated themselves with the commission of such acts by public servants;

- (b) to consider such other matters which in the opinion of the Commission, have any relevance to the aforesaid allegations; and
- (c) to recommend measures which may be adopted for preventing, the recurrence of such abuses of authority, misuse of powers, excesses and malpractices.

And whereas as mentioned in paragraph 3 of the said notification inquiry has to be in regard to:—

- (i) complaints or allegations aforesaid that may be made before the Commission by any individual or association in such form and accompanied by such affidavit as may be prescribed by the Commission; and
- (ii) such instances relatable to paragraph 2(a) (i) to (v) as may be brought to the notice by the Central Government or a State Government or a Union Territory for inquiry;

And whereas the State Government is of the opinion that it is necessary to appoint an authority—

to inquire into such complaints or allegations as may be referred to the State Government or the Authority by the said Commission;

And whereas approval of the Central Government has been obtained to set up an authority to enquire into the matters covered by the terms of reference of the said Commission as required by section II read with clause (a) of the proviso to sub-section (I) of section 3 of the Commissions of Inquiry Act, 1952 (No. LX of 1952);

And whereas vide resolution No. GAD(PA)-5(E)-2/77-CC, dated 25th July, 1978, published in Rajpatra, Himachal Pradesh (Extraordinary), dated 25th July, 1978, it was resolved that an Emergency Excesses Inquiry Authority be set up, which shall consist of Shri Jai Chand Malhotra, Secretary (Law) to the Government of Himachal Pradesh;

And whereas Shri Jai Chand Malhotra, who is functioning as the Emergency Excesses Inquiry Authority, has expressed his unwillingness to enquire into the complaints given in the annexure to this resolution, for the reasons that either the persons against whom the said complaints have been lodged or the complaints are officially or privately connected with him and as such it shall not be fair for him to conduct the inquiry in the said complaints. It has, therefore, become necessary that these complaints may be enquired into by another Emergency Excesses Inquiry Authority to be set up by the State Government;

And whereas the approval of the Central Government to set up a separate authority to enquire into the complaints/allegations specified in the annexure to this resolution has been obtained;

Now, therefore, it is hereby resolved that an Emergency Excesses Inquiry Authority be set up to enquire into the complaints/allegations specified in the annexure to this resolution, which shall consist of Shri P. P. Sirivastava, Divisional Commissioner, Himachal Pradesh.

2. The terms of reference of the Authority shall be to enquire into the complaints or allegations as are specified in the annexure to this Resolution.

3. The said Authority shall submit a final report with recommendations for actions to be taken to the said Commission before 15th September, 1978.

4. It is further resolved that all the provisions of the Commission of Inquiry Act, 1952 (No. LX of 1952) except sub-section (4) of section 3 thereof be made applicable to the said Authority.

Sd/-

*By order and in the name of the Governor
of Himachal Pradesh.*

ANNEXURE

MISUSES AND ABUSES OF POWERS

1. Complaint by Kumari Rukmani.

ARRESTS AND DETENTIONS

1. Complaint by Shri Ramji Dass of Pandoh.
2. Complaint by Havaladar Chint Ram of Palampur.

NOTIFICATION

Simla-171002, the 28th August, 1978

No. GAD (PA)-5 (E)-2/77-CC.—Whereas, the State Government has, by its resolution No. GAD(PA)-5(E)-2/77-CC, dated 28th August, 1978 set up the Emergency Excesses Inquiry Authority to enquire into the complaints/allegations as given in the annexure to this notification;

And whereas the State Government is of opinion that the provisions of the Commissions of Inquiry Act, 1952 (No. LX of 1952) should be made applicable to the said authority;

Now, therefore, in exercise of the powers conferred by section II of the Commissions of Inquiry Act, 1952 (No. LX of 1952), the State Government hereby, with the approval of the Central Government, directs that all the provisions of the said Act except those contained in sub-section (4) of section 3 thereof shall apply to the said authority.

*By order and in the name of the Governor of
Himachal Pradesh.*

ANNEXURE
MISUSES AND ABUSES OF POWERS

1. Complaint by Kumari Rukmani.

ARRESTS AND DETENTIONS

2. Complaint by Shri Ramji Dass of Pandoh.
3. Complaint by Havaladar Chint Ram of Palampur.

NOTIFICATION

Simla-171002, the 28th August, 1978

No. GAD (PA)-5 (E)-2/77-CC.—In exercise of the powers conferred by section 5 of the Commissions of Inquiry Act, 1952 (No. LX of 1952), read with this department notification No. GAD (PA)-5 (E)-2/77-CC, dated 28th August, 1978 the State Government hereby directs that the provisions of sub-sections (2), (3), (4) and (5) of the said section shall apply to the Emergency Excesses Inquiry Authority set up by the State Government under resolution No. GAD(PA)-5(E)-2/77-CC, dated 28th August, 1978.

*By order and in the name of the Governor of
Himachal Pradesh.*

RESOLUTION

Whereas, the Central Government, in exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (No. LX of 1952) has, *vide* Ministry of Home Affairs Notification No. S.O.374(E), dated 28th of May, 1977, appointed a Commission of Inquiry consisting of Chairman Shri J.C. Shah, a retired Chief Justice of the Supreme Court of India, to enquire into several aspects of allegations of abuse of authority, misuses of powers, excesses and/or malpractices committed and action taken or purported to be taken in the wake of the emergency proclaimed on the 25th June, 1975 under Article 352 of the Constitution with the following, having been mentioned in paragraph 2 of the said notification, as terms of reference of the Commission, namely:—

- (a) to inquire into the facts and circumstances relating to specific instances of—
 - (i) subversion of lawful processes and well established conventions, administrative procedure and practices, abuse of authority misuse of powers, excesses and/or malpractices committed during the period when the

proclamation of Emergency made on 25th June, 1975 under Article 352 of the Constitution was in force or in days immediately preceding the said proclamation;

- (ii) misuses of powers of arrests or issue of detention orders where such arrests or orders are alleged to have been made on considerations not germane to the purposes of the relevant Acts during the aforesaid period;
- (iii) specific instances of maltreatment of and/or atrocities on persons arrested under DISIR or retained and their relatives and close associates during the aforesaid period;
- (iv) specific instances of compulsion and use of force in the implementation of the Family Planning Programme during the aforesaid period;
- (v) indiscriminate, high-handed or un-authorised demolition of houses, huts, shops, buildings, structures and destruction of property in the name of slum clearance or enforcement of Town Planning or land use schemes, during the aforesaid period:

Provided that the inquiry shall be in regard to acts or such abuse of authority, misuse of powers, excesses, malpractices etc., alleged to have been committed by public servants, and provided further that the inquiry shall also cover the conduct of other individuals who may have directed, instigated or sided or abetted or otherwise associated themselves with the commission of such acts by public servants;

- (b) to consider such other matters which in the opinion of the Commission, have any relevance to the aforesaid allegations; and
- (c) to recommend measures which may be adopted for preventing the recurrence of such abuses of authority, misuse of powers, excesses and malpractices.

And whereas as mentioned in paragraph 3 of the said notification inquiry has to be in regard to—

- (i) complaints or allegations aforesaid that may be made before the Commission by any individual or association in such form and accompanied by such affidavit as may be prescribed by the Commission; and
- (ii) such instances relatable to paragraph 2(a) (i) to (v) as may be brought to the notice by the Central Government or a State Government or a Union territory for inquiry;

And whereas the State Government is of the opinion that it is necessary to appoint an authority—

to inquire into such complaints or allegations as may be referred to the State Government or the Authority by the said Commission;

And whereas approval of the Central Government has been obtained to set up an authority to enquire into the matters covered by the terms of reference of the said Commission as required by section II read with clause (a) of the proviso to sub-section (I) of section 3 of the Commissions of Inquiry Act, 1952 (No. LX of 1952);

And whereas *vide* resolution No.GAD(PA)-5(E)-2/77-CC, dated 25th July, 1978, published in Rajpatra, Himachal Pradesh (Extra ordinary) dated 25th July, 1978, it was resolved that an Emergency Excesses Inquiry Authority be set up, which shall consist of Shri Jai Chand Malhotra, Secretary (Law) to the Government of Himachal Pradesh.

And whereas Shri Jai Chand Malhotra, who is functioning as the Emergency Excesses Inquiry Authority, has expressed his unwillingness to enquire into the complaints given in the annexure to this resolution, for the reasons that either the persons against whom the said complaints have been lodged or the complainants are officially or privately connected with him and as such it shall not be fair for him to the inquiry in the said complaints. It has, therefore, become necessary that these conduct complaints may be enquired into by another Emergency Excesses Inquiry Authority to be set up by the State Government;

And whereas the approval of the Central Government to set up a separate authority to enquire into the complaints/allegations specified in the annexure to this resolution has been obtained;

Now, therefore, it is hereby resolved that an Emergency Excesses Inquiry Authority be set up to enquire into the complaints/allegations specified in the annexure to this resolution, which shall consist of Shri H. S. Dubey, Financial Commissioner, Himachal Pradesh.

2. The terms of reference of the Authority shall be to enquire into the complaints or allegations as specified in the annexure to this resolutions.

3. The said authority shall submit a final report with recommendations for actions to be taken to the said Commission before 15th September, 1978.

4. It is further resolved that all the provisions of the Commission of Inquiry Act, 1952 (No. LX of 1952) except sub-section (4) of section 3 thereof be made applicable to the said authority.

*By order and in the name of the Governor of
Himachal Pradesh.*

ANNEXURE

1. Complaint by Shri Kailash Chand Gupta of Totu.
2. Complaint by Shri Moti Ram.

NOTIFICATION

Simla-171002, the 28th August, 1978

No. GAD (PA)-5-(E)-2/77-CC.—Whereas, the State Government has, by its resolution No. GAD (PA)-5 (E)-2/77-CC, dated 28-8-78 set up the Emergency Excesses Inquiry Authority to enquire into the complaints/allegations as given in the annexure to this notification.

And whereas the State Government is of opinion that the provisions of the Commissions of Inquiry Act, 1952 (No. LX of 1952) should be made applicable to the said authority.

Now, therefore, in exercise of the powers conferred by section II of the Commissions of Inquiry Act, 1952 (No. LX of 1952), the State Government hereby, with the approval of the Central Government, directs that all the provisions of the said Act except those contained in sub-section (4) of section 3 thereof shall apply to the said authority.

*By order and in the name of the Governor of
Himachal Pradesh.*

ANNEXURE

1. Complaint by Shri Kailash Chand Gupta of Totu.
2. Complaint by Shri Moti Ram.

[NOTIFICATION

Simla-171002, the 28th August, 1978

No. GAD (PA) 5-(E)-2/77-CC.—In exercise of powers conferred by section 5 of the commissions of Inquiry Act, 1952 (No. LX of 1952), read with this department notification No. GAD (PA)-5-(E)-2/77-CC, dated 28-8-1978 the State Government hereby directs that the provisions of sub-sections (2), (3), (4) and (5) of the said section shall apply to the Emergency Excesses Inquiry Authority set up by the State Government under resolution No. GAD (PA)-5-(E)-2/77-CC, dated 28-8-1978.

*By order and in the name of the Governor of
Himachal Pradesh.*

निर्वाचन विभाग

अधिसूचना

शिमला-171002, 26 अगस्त, 1978

संख्या 4-9/70-इलैक.—इस विभाग की अधिसूचना यथोपरि सख्या, दिनांक 24 जुलाई, 1978 के अनुवर्तन में तथा हिमाचल प्रदेश ग्राम पंचायत निर्वाचन नियम, 1978 के नियम-8 के अधीन प्रदत्त शक्तियों के अनुसरण में, मैं, हरि शंकर दुबे, निदेशक निर्वाचन (स्थानीय निकाए) हिमाचल प्रदेश, ग्राम पंचायत निर्वाचन के लिये निम्न अतिरिक्त प्रतीकों का निर्धारण करता हूँ:—

9. फूल

10. हाथी

11. मुर्गा

12. घोड़ा तथा घुड़सवार

हरि शंकर दुबे,
निदेशक निर्वाचन,
स्थानीय निकाए ।

